



Department of

Veterans Services

How to Read a Decision Letter

Introduction

In order for an advocate to adequately advise a veteran as to whether or not a VA rating decision is a fair representation of the facts, he/she must be familiar with the basic format of the rating decision, whether all the relevant issues claimed or inferred were properly and adequately addressed, and be able to look for the elements that must be overcome if the veteran is not satisfied.

Course Objectives

Upon successful completion of this course the participant will be able to:

- To learn how to properly read a rating decision and help determine the veteran's next course of action if the decision isn't favorable.
- Provide an orientation of a codesheet

Course Objectives

Fact: We have 83 new CSO/VSO/RD and VRC that I have personally accredited in the last 37 Months. That is 49% of the state that have under 3 years experience.

Disclaimer: I am going to touch the surface of today's subject and hopefully provide a foundation or build on what experienced you already have. There is so much subject matter that I will not be able to get to it all.

References

- 38 Code of Federal Regulations Part 4
- Adjudication Procedures Manual M21-1, Part III, Subpart iv, Chapter 6, Section B, C, D, and E

General

When a claim is deemed “ready-to-rate” and referred to a Rating Veterans Service Representative (RVSR), the Rater must decide all issues and claims, whether they are **expressly claimed issues, issues within scope, or unclaimed subordinate issues and ancillary benefits.**

General

An **expressly claimed** issue is when a disability and the benefit sought are both explicitly identified on a standardized VA form.

An example would be a veteran claiming Diabetes Mellitus, Type II due to Agent Orange exposure in Vietnam.

General

An **Issues within scope** is one that is not explicitly identified by the claimant but is identified upon review of the claims folder during the decision-making process for an expressly claimed issue. An issue within scope arises based on a sympathetic reading of the claimant's statements and/or evidence of record. It encompasses such things as entitlement to

- any ancillary benefits that arise as a result of the adjudicated decision

and

- Additional benefits for complications of an expressly claimed condition

General

Note: VA does not expect, nor does the law require, claimants to articulate with medical precision the disabilities for which compensation is sought. Veterans regularly claim disability compensation for a specific clinical entity and ultimately establish service connection (SC) for a similar, but clinically distinct, condition.

General

Example

VA may, in developing a Veteran's claim for SC for sinusitis, provide the Veteran with an examination that renders a diagnosis of a similar condition, such as allergic rhinitis, rather than sinusitis.

In the event that the examination is otherwise sufficient for rating purposes and the condition is associated with service, the decision maker awards SC for allergic rhinitis as within the scope of the claim for sinusitis.

General

Poll Question 1

The Veteran's VA examination shows that his service-connected posttraumatic stress disorder (PTSD) warrants an increase to a 70-percent evaluation at the examination. In addition, the Veteran reported that he has been fired from several jobs due to his inability to deal with stress, and the VA examiner identified the Veteran's stress management problem as a symptom of his PTSD.

General

Poll Question 1

Would the decision maker address the issue of individual unemployability (IU) in the rating decision?

- A. Yes
- B. No

General

Poll Question 1

Would the decision maker address the issue of individual unemployability (IU) in the rating decision?

- A. Yes
- B. No

Issues within scope is one that is not explicitly identified by the claimant but is identified upon review of the claims folder during the decision-making process for an expressly claimed issue. Veteran reported that he has been fired from several jobs due to his inability to deal with stress, and the VA examiner identified the Veteran's stress management problem as a symptom of his PTSD.

General

Poll Question 2

The Veteran submits a claim for SC for right knee strain. The evidence of record, including the resulting examination, shows that SC for the knee strain is warranted. The examination also reveals a knee scar that resulted from a post-service arthroscopy procedure. The examination indicates the arthroscopy was associated with the SC right knee strain. The examination also shows that the scar is not painful or unstable and is less than 6 square inches.

General

Poll Question 2

Would the decision maker address the scar in the rating decision without the veteran expressly claiming the issue?

- A. Yes
- B. No

General

Poll Question 2

Would the decision maker address the scar in the rating decision without the veteran expressly claiming the issue?

A. Yes

B. No

C. In the event that the examination is otherwise sufficient for rating purposes, the decision maker awards SC for the knee condition and separate SC for the noncompensable knee scar as within the scope of the claim for SC for right knee strain.

General

- For more information on
- sympathetic reading of a claim, see **Robinson v. Shinseki**, 557 F.3d 1355 (Fed.Cir. 2009)
- scope of claim, see
 - **38 CFR 3.155(d)(2)**, and
 - **M21-1, Part III, Subpart iv, 6.B.2**
- identifying reasonably raised IU claims, see **M21-1, Part IV, Subpart ii, 2.F.2.m**, and
- tinnitus associated with claims for SC for hearing loss, see **M21-1, Part III, Subpart iv, 4.D.3.**

General

An **unclaimed subordinate issue** are issues derived from the consideration or outcome of related issues. Often, the primary and subordinate issues share the same fact pattern. An example would be a veteran who is granted service connection at 100% for his claimed amyotrophic lateral sclerosis (ALS), and the VA examination shows that the veteran requires the daily assistance of his spouse to attend to his activities of daily living. The subordinate issue would be consideration of aid and attendance or housebound under Special Monthly Compensation (SMC).

General

An **ancillary Benefits** are secondary benefits that are considered when evaluating claims for

- Compensation
- Pension, or
- Dependency and Indemnity Compensation (DIC).

Note: Eligibility for ancillary benefits is derived from a Veteran's entitlement to disability benefits or the circumstances of the Veteran's death.

General

Example

The Veteran is granted a 100-percent evaluation for amyotrophic lateral sclerosis (ALS) and complications, and the VA examination shows that he requires the daily assistance of his wife to attend to his activities of daily living

The rating activity addresses the issues of aid and attendance (A&A), Dependents' Educational Assistance (DEA), specially adapted housing (SAH), and automobile allowance and adaptive equipment in the rating decision.

General

Some types of ancillary benefits are

- DEA under **38 U.S.C. Chapter 35**
 - SAH under **38 CFR 3.809**
 - Special Housing Adaptation (SHA) awards under **38 CFR 3.809a**
 - Automobile and adaptive equipment under **38 CFR 3.808**
 - Vocational rehabilitation/employment, and
 - loan guaranty for surviving spouses under **38 CFR 3.805**.
-
- ***Reference:*** For more information on ancillary benefits, see
 - **M21-1, Part III, Subpart iv, 6.B.1.e**, and
 - **M21-1, Part IX, Subpart i**.

Basic Format of the Rating Decision

- **Narrative**
- *Introduction*
- *Decision*, for each issue considered
- *Evidence*
- *Reasons for Decision*, for each issue considered, and
- *References*
-
- **Codesheet**
- *Data table*
- *Jurisdiction*
- *Coded conclusion*
- *Special Notations and Template fields*, and
- *Signature(s)*

Basic Format of the Rating Decision

The purpose of the *Introduction* is to

- identify the claimant, and
- acknowledge the Veteran's qualifying service, including any special considerations relevant to the claim, such as former prisoner of war status.

Note: The level of detail in the introduction depends on the complexity of each issue.

Basic Format of the Rating Decision

VA File Number

Represented By:

TENNESSEE DEPARTMENT OF VETERANS SERVICES

Rating Decision

10/25/2019

INTRODUCTION

The records reflect that you are a veteran of the Peacetime. You served in the Marine Corps from September 24, 1986, to April 12, 1990. You filed a claim for increased evaluation that was received on June 24, 2019. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

Basic Format of the Rating Decision

The ***Decision*** section lists the specific outcome for each issue addressed, such as the award, or deferral, assigns an evaluation for each issue granted and an effective date of

- Service Connection (SC)
- An increased evaluation, or
- An ancillary benefit, such as special monthly compensation (SMC).

Basic Format of the Rating Decision

DECISION

1. A temporary evaluation of 100 percent has been assigned for your left above-knee amputation effective September 11, 2018, based on surgical or other treatment necessitating convalescence.

An evaluation of 60 percent is assigned from January 1, 2019.

2. Service connection for amputation scar left thigh is granted with an evaluation of 0 percent effective September 11, 2018.

3. Entitlement to additional special monthly compensation based on anatomical loss of your left leg above the knee is granted from September 11, 2018.

Basic Format of the Rating Decision

Evidence

- The *Evidence* includes a clear and concise inventory of all evidence considered in arriving at the decision, including the following information:
- Applicable dates, such as dates covered by service treatment records (STR), identifying at least the month and year
- Treatment reports
- Hospitalizations
- Information sources, such as the names of:
 - Department of Veterans Affairs (VA) and private medical facilities
 - Private physicians
 - Other information sources, and
- A list of items of evidence requested but not received

Basic Format of the Rating Decision

EVIDENCE

- DBQ Medical Opinion, received on October 18, 2019
- DBQ MUSC Amputations, received on October 18, 2019
- Treatment records from Tennessee Valley VAHCS, dated September 1997 to May 2019, received June 27, 2019, July 26, 2019, August 8, 2019, and October 25, 2019
- We have been unable to obtain records from Tennessee Valley VAHCS for the period June 1990 to August 1997. We have determined that these records do not exist. We will now make a decision based on the evidence of record.
- Documentation of telephone call from you on October 10, 2019, stating you had no additional evidence to submit
- VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received June 24, 2019
- VA Form 21-0966, Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC, received September 25, 2018

Basic Format of the Rating Decision

Evidence Continue

A review of the evidence listed is very important for the advocate to go over with the claimant, as pertinent evidence may have been overlooked or never obtained by the VA, which could have been significant to the outcome of the decision.

Basic Format of the Rating Decision

Reasons for the Decision

The RVSR (rater) must support their conclusions with an adequate level of analysis and explanation. For example, where service connection is being granted, the Rater must state or discuss the in-service event and/or developments that link the condition to service; the basis for the percentage evaluation; the requirements for the next higher evaluation; and the basis for the effective date.

Basic Format of the Rating Decision

REASONS FOR DECISION

1. Evaluation of your service-connected left lower extremity peripheral vascular disease, status post left femoral-popliteal bypass, currently evaluated as 20 percent disabling. Entitlement to a temporary total evaluation because of treatment for a service-connected condition requiring convalescence.

We reviewed your VA treatment records and the information provided by your VA examiner to determine the current status and symptoms of your service-connected left lower extremity peripheral vascular disease. Your records document that you underwent a left above-knee amputation on September 11, 2018.

An evaluation of 100 percent has been assigned effective September 11, 2018, based on surgical or other treatment necessitating convalescence. (38 CFR 4.30, 38 CFR 3.400, 38 CFR 3.401)

The effective date of your temporary 100 percent is September 11, 2018. 38 CFR §4.30 mandates that a temporary total disability rating will be assigned effective the date of hospital admission or outpatient treatment when treatment of a service-connected disability results in surgery necessitating at least one month of convalescence; surgery with severe postoperative residuals; or immobilization by cast, without surgery, of one major joint or more (38 CFR 4.30, 3.400, 3.401).

An evaluation of 60 percent is assigned from January 1, 2019, following the expiration of your temporary total disability rating (38 CFR 4.30, 3.400, 3.501).

We have assigned a 60 percent evaluation for your left above-knee amputation (previously

Basic Format of the Rating Decision

evaluated as left lower extremity peripheral vascular disease, status post left femoral-popliteal bypass) based on:

- Amputation of the middle or lower thirds of the leg**

A higher evaluation of 80 percent is not warranted for amputation of the middle or lower thirds of the leg unless the evidence shows amputation of the upper third of the leg, one-third of the distance from perineum to knee joint measured from perineum. (38 CFR 4.71a)

Additionally, a higher evaluation of 100 percent is not warranted for amputation of the middle or lower thirds of the leg unless the evidence shows amputation or loss of use of another extremity at any level. (38 CFR 4.71a)

Basic Format of the Rating Decision

Reasons for the Decision (continued)

If the Rater is denying service connection, they must cite and evaluate all evidence that is relevant and necessary to the determination; address all of the claimant's contentions; and clearly explain why that evidence is found to be persuasive or unpersuasive.

Remember, in order for a condition to be service related, it must be a chronic condition and have continuity to service.

Basic Format of the Rating Decision

Reasons for the Decision (continued)

Often times, the Rater must request a medical opinion from a physician before they can make a determination as to whether a current condition may be related to some in-service event or not (DBQ vs Opinion).

The advocate should look for these situations and dispute any decisions where the Rater makes a medical determination that only a medical professional has the qualifications to make.

Basic Format of the Rating Decision

Reasons for the Decision (continued)

If the Rater grants service connection, they must refer to the Schedule for Rating Disabilities in 38 CFR, Part 4 to find the proper diagnostic code (DC) for each condition and assign a percentage evaluation based on the medical evidence and how it fits into the criteria for the evaluation for that condition.

For example, when assigning a 10 percent evaluation to a knee disability, they should state: "You meet the criteria for a 10 percent evaluation because at your examination, slight instability was found in your left knee."

Basic Format of the Rating Decision

Reasons for the Decision (continued)

The RVSR should also state the criteria for the next higher evaluation under that diagnostic code and explain why the veteran does not meet the criteria for the next higher evaluation.

For example: “You do not meet the criteria for the next higher evaluation of 20 percent because the evidence does not show that your knee instability is moderate.”

Note: As you can see, some of the criteria for evaluation are very subjective, and an argument for a higher evaluation can always be made with supporting evidence for the next higher evaluation.)

Basic Format of the Rating Decision

evaluated as left lower extremity peripheral vascular disease, status post left femoral-popliteal bypass) based on:

- Amputation of the middle or lower thirds of the leg

A higher evaluation of 80 percent is not warranted for amputation of the middle or lower thirds of the leg unless the evidence shows amputation of the upper third of the leg, one-third of the distance from perineum to knee joint measured from perineum. (38 CFR 4.71a)

Additionally, a higher evaluation of 100 percent is not warranted for amputation of the middle or lower thirds of the leg unless the evidence shows amputation or loss of use of another extremity at any level. (38 CFR 4.71a)

Basic Format of the Rating Decision

Reasons for the Decision (continued)

Finally, the RVSR must assign an effective date and explain why that effective date is being assigned.

When reviewing a rating decision, the advocate must look at the Reasons and Bases the RVSR uses to explain their decision.

The advocate's role is to review the rating decision with the veteran, explain to the veteran (in non-technical terms) the RVSR's expressed rationale for the decision, and together try to come up with ideas about what evidence may be obtainable for a more favorable decision.

Basic Format of the Rating Decision

Poll Question 3

If the rating decision says the basis for the denial-of-service connection is that there is no evidence of treatment in service, yet the veteran has a copy of his/her STRs which clearly show treatment, the denial should be disputed. On what VA Form will you use to dispute the decision?

- A. VA Form 21-0996 Decision Review Request: Higher-Level Review
- B. VA Form 21-0995 Decision Review Request: Supplemental Claim
- C. VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits

Basic Format of the Rating Decision

Poll Question 3

If the rating decision says the basis for the denial-of-service connection is that there is no evidence of treatment in service, yet the veteran has a copy of his/her STRs which clearly show treatment, the denial should be disputed. On what VA Form will you use to dispute the decision?

- A. VA Form 21-0996 Decision Review Request: Higher-Level Review
- B. VA Form 21-0995 Decision Review Request: Supplemental Claim
- C. VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits

Summary

The advocate's role is to review the rating decision with the veteran, explain to the veteran (in non-technical terms) the Rater's expressed rationale for the decision, and together try to come up with ideas about what evidence may be obtainable for a more favorable decision.

If the veteran is still dissatisfied with the decision, they should be counseled on what evidence will be needed to overcome the decision, and if it is obtainable.

SETTING EXPECTATIONS

Code Sheet

Rating Decision		<i>Department of Veterans Affairs Veterans Benefits Administration</i>		Page 1 of 7 10/25/2019	
NAME OF VETERAN		VA FILE NUMBER	SOCIAL SECURITY NR		POA
					TENNESSEE DEPARTMENT OF VETERANS SERVICES
					COPY TO

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
		Marine Corps	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1	4	None

JURISDICTION: Claim for Increase Received 06/24/2019

Code Sheet

Rating Decision		<i>Department of Veterans Affairs Veterans Benefits Administration</i>		Page 1 of 7 10/25/2019	
NAME OF VETERAN		VA FILE NUMBER	SOCIAL SECURITY NR		POA
					TENNESSEE DEPARTMENT OF VETERANS SERVICES
					COPY TO

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
		Marine Corps	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1	4	None

JURISDICTION: Claim for Increase Received 06/24/2019

Code Sheet

Use the table below for a description of additional service codes.

Code	Description
1-WT	Indicates additional service, some of which occurred during a wartime period.
2-PTE	Indicates additional service, all occurring during a peacetime period.
3-SCD	<p>Establishes entitlement in a pension rating decision based on the existence of a service-connected (SC) disability at the time of separation for which discharge or release was or would have been granted, as provided in 38 CFR 3.3(a)(1)(ii) and 38 CFR 3.3(a)(3)(ii).</p> <p>Note: This code is used only in pension rating decisions for Veterans with less than 90 days of service.</p>
WWI- Service in Russia	<p>Indicates whether or not there was service in Russia that qualifies as World War I (WWI) service.</p> <p>Note: The narrative must show whether or not there was service in Russia in cases where the Veteran had no active service during the inclusive dates for WWI, April 6, 1917, to November 11, 1918, but did serve thereafter, on or before April 1, 1920.</p>

Code Sheet

Rating Decision		<i>Department of Veterans Affairs Veterans Benefits Administration</i>		Page 1 of 7 10/25/2019	
NAME OF VETERAN		VA FILE NUMBER	SOCIAL SECURITY NR		POA
					TENNESSEE DEPARTMENT OF VETERANS SERVICES
					COPY TO

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
		Marine Corps	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1	4	None

JURISDICTION: Claim for Increase Received 06/24/2019

Code Sheet

The table below contains descriptions for each of the four combat status codes.

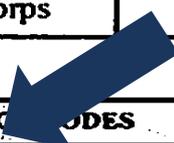
Code	Description
1-None	Indicates no combat disabilities.
2-(Comp.)	One or more combat disabilities, all of which are compensable.
3-(Noncomp.)	One or more combat disabilities, none of which are compensable.
4-(Both)	One or more combat disabilities, not all of which are compensable.

Code Sheet

Rating Decision		<i>Department of Veterans Affairs Veterans Benefits Administration</i>		Page 1 of 7 10/25/2019	
NAME OF VETERAN		VA FILE NUMBER	SOCIAL SECURITY NR		POA
					TENNESSEE DEPARTMENT OF VETERANS SERVICES
					COPY TO

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
		Marine Corps	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1	4	None



JURISDICTION: Claim for Increase Received 06/24/2019

Code Sheet

The table below contains descriptions for each of the seven special provision codes.

Code	Description
1	Indicates Medal of Honor pension under 38 CFR 3.802 .
2	Indicates naval pension allowance under 38 CFR 3.803 .
3	Indicates extra-schedular entitlement to individual unemployability or pension under 38 CFR 3.321(b) . Note: In legacy systems, any extra-schedular evaluation was identified by entry of <i>ES</i> following the specific diagnostic code (DC).
4	Indicates an under-schedular evaluation (by reason of deduction of the pre-service level of disability) to a pre-service disability aggravated by service. Note: In legacy systems, any under-schedular evaluation was identified by entry of <i>US</i> following the specific DC.
5	Indicates the Veteran is incarcerated, and pension is being awarded to dependents under 38 CFR 3.666 .
6	Indicates <ul style="list-style-type: none">• computer audit acceptance of any combination of the special provision codes• a total evaluation is continued because it is protected under 38 CFR 3.951, or• acceptance of a combined evaluation that is not justified by the individual evaluations.
7	Indicates receipt of compensation or Dependency Indemnity Compensation (DIC) under 38 U.S.C. 1151 .

Code Sheet

JURISDICTION: Claim for Increase Received 06/24/2019

ASSOCIATED CLAIM(s): 020; D2D-Supplemental (020); 06/24/2019

SUBJECT TO COMPENSATION (I.SC)

7114-5164	<p>STATUS POST RIGHT ABOVE KNEE AMPUTATION (PREVIOUSLY EVALUATED AS RIGHT LOWER EXTREMITY PERIPHERAL VASCULAR DISEASE WITH NEUROPATHIC PAIN UNDER DC 7114) ASSOCIATED WITH HIGH BLOOD PRESSURE Service Connected, Peacetime, Secondary Static Disability 100% from 05/16/2006 (38 CFR 4.30) 60% from 08/01/2006</p>
5162	<p>LEFT ABOVE-KNEE AMPUTATION (PREVIOUSLY RATED AS LEFT LOWER EXTREMITY PERIPHERAL VASCULAR DISEASE, STATUS POST LEFT FEMORAL-POPLITEAL BYPASS) ASSOCIATED WITH HIGH BLOOD PRESSURE Service Connected, Peacetime, Secondary Static Disability 40% from 12/21/2004 (7114) 100% from 02/27/2005 (7114) 20% from 06/01/2006 (7114) 100% from 09/11/2018 (38 CFR 4.30) 60% from 01/01/2019</p>

Code Sheet

SPECIAL MONTHLY COMPENSATION :

S-1 Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (s) and 38 CFR 3.350(i) on account of left lower extremity peripheral vascular disease, status post left femoral-popliteal bypass rated 100 percent and additional service-connected disability of right lower extremity peripheral vascular disease with neuropathic pain, independently ratable at 60 percent or more from 08/12/2005 to 06/01/2006.

K-1 Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (k) and 38 CFR 3.350(a) on account of anatomical loss of one foot from 05/16/2006.

S-1 Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (s) and 38 CFR 3.350(i) on account of coronary artery disease, status post bypass graft rated 100 percent and additional service-connected disabilities of status post right above knee amputation (previously evaluated as right lower extremity peripheral vascular disease with neuropathic pain under DC 7114), independently ratable at 60 percent or more from 05/04/2007 to 09/01/2007.

Code Sheet

ANCILLARY DECISIONS



Entitled to Specially Adapted Housing

Entitled to Automobile and Adaptive Equipment

Not Entitled to Special Home Adaptation

Basic Eligibility under 38 USC Ch 35 from 01/01/2010

Code Sheet



SMC (m) rate is higher than that payable for HB; therefore there is no additional entitlement to HB benefits for the temp 100% convalescent period.

eSign: certified by

VSR



Code Sheet

SMC (m) rate is higher than that payable for HB; therefore there is no additional entitlement to HB benefits for the temp 100% convalescent period.



eSign: certified by

VSR



Questions



Next Training Event

- **There will be no October 2021 Monthly Lunch and Learn**
- 2021 Annual Training Conference is October 13-15, 2021
 - Hotel and event registration closes Friday, September 10, 2021
 - Virtual links will be provided first week of October
 - Agenda coming soon
- TDVS New Service Officer Accreditation Course is October 25-29 in Smyrna Tennessee